



**DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108**

NOV 18 2010

Senator Barbara Boxer
United States Senate
112 Hart Senate Office Building
Washington, DC 20510

Dear Senator Boxer:

This is in response to your letter of September 16, 2010, and a follow up to my interim response concerning authorizations in the Water Resources Development Act (WRDA) of 2007 to expand the Hamilton Wetlands Restoration Project in California and the Poplar Island Ecosystem Restoration Project in Maryland. In your letter, you note your belief that Congress intended to authorize expansions of these two projects at the 75 percent Federal / 25 percent non-Federal cost-share for the original projects, rather than at the new cost share for Beneficial Use of Dredged Material projects implemented pursuant to Section 204 of WRDA 1992, as amended.

First, I would like to convey our commitment to the Hamilton Wetlands and Poplar Island projects as two of the foremost examples of ecosystem restoration planning and implementation in the nation. I also will summarize the Army's position on the overall effect of WRDA 2007 on the expansions of these projects that were authorized by Section 3018 and Section 3087, respectively, of WRDA 2007.

In both cases, the expansions exceeded the discretionary authority of the Chief of Engineers to implement modifications apart from the WRDA 2007 authorizations. Because the newly authorized work could not have been implemented absent the additional Congressional authorization provided in WRDA 2007, the expansions are subject to the cost sharing requirements set forth in that law.

As you note in your letter, the WRDA 2007 specific authorizations for these projects did set forth an estimated 75 percent Federal / 25 percent no-federal cost share in the respective project authorizations. However, Section 2008(c) of WRDA 2007 provides that the estimated Federal and non-Federal costs set out in a project authorization "are for informational purposes only and shall not be interpreted as affecting the cost-sharing responsibilities established by law." Thus, in accordance with the direction in Section 2008(c) of WRDA 2007, Section 103(c)(7) of WRDA 1986, as amended, must be applied to determine the applicable cost sharing, which it establishes at 65 percent Federal and 35 percent non-Federal for ecosystem restoration projects.

Given Section 2008(c)'s explicit direction to treat the stated Federal and non-Federal cost estimates as having no substantive effect and absent express statutory direction that the cost sharing established in Section 103(c)(7) of WRDA 1986 does not apply, I do not have the authority to apply a different cost share.

Thank you for your continued support for and interest in the Army's ecosystem restoration mission and other important Civil Works projects. Similar letters are being provided to Senators Feinstein, Mikulski, and Cardin.

Very truly yours,

A handwritten signature in black ink, reading "Jo-Ellen Darcy". The signature is written in a cursive style with a large, looping initial "J".

Jo-Ellen Darcy
Assistant Secretary of the Army
(Civil Works)